

COUNTY OF YORK

MEMORANDUM

DATE: August 21, 2000 (BOS Mtg. 9/19/00)

TO: York County Board of Supervisors

FROM: Daniel M. Stuck, County Administrator

SUBJECT: Application No. UP-559-00, John and Janet Veith

ISSUE

This application requests a special use permit, pursuant to Section 24.1-407(c) of the York County Zoning Ordinance, to authorize an accessory apartment in conjunction with a single-family detached dwelling to be constructed on property located in the northwest quadrant of the intersection of Skimino Landing Drive and Pheasant Springs Road and further identified as Assessor's Parcel No. 3-(2)-2B-40.

DESCRIPTION

- Property Owner: John and Janet Veith
- Location: Northwest quadrant of the intersection of Skimino Landing Drive and Pheasant Springs Road in the Skimino Landing Estates subdivision
- Area: 2.0 acres
- Frontage: Approximately 350 feet on Skimino Landing Drive and 203 feet on Pheasant Springs Road
- Utilities: None. The lot will be served by a private well and septic system.
- Topography: Steep slopes (20% or greater) are present on two small portions of the lot at the southwestern and southeastern corners.
- 2015 Land Use Map Designation: Low-Density Residential
- Zoning Classification: RR-Rural Residential
- Existing Development: None
- Surrounding Development:
 - North: Single-family detached home
 - East: None
 - South: None
 - West: None

- Proposed Development: Accessory apartment in conjunction with a single-family detached dwelling (to be constructed)

CONSIDERATIONS/CONCLUSIONS

1. Skimino Landing Estates, where the subject parcel is located, is a developing large-lot single-family detached residential subdivision in the Skimino area of the upper County. Because there is no public water or sewer, the minimum lot size is two (2) acres. The comprehensive plan designates this area for low-density single-family residential use partly because of the absence of utilities but also because of the severe topography, the proximity to Skimino Creek, and the general condition of the road network. Accordingly, this area is zoned RR (Rural Residential). Accessory apartments are permitted as a matter of right in the RR zoning district, but because the proposed size of the accessory apartment exceeds the limits prescribed in Section 24.1-407(c) of the Zoning Ordinance (450 square feet or 25% of the total floor area of the principal dwelling, whichever is less), a special use permit is required.
2. The applicants recently purchased the subject parcel with plans to build an approximately 2,700-square foot home within the next four to five years. In addition, they wish to build a detached three-car garage, the top floor of which would serve as an accessory apartment for Mr. Veith's mother. The apartment would include a living room, bedroom, kitchen, bathroom, and a small, ground-floor utility room that would house a washer and dryer. According to the applicants' current building plans, the total area of the accessory apartment would be approximately 750 square feet, which represents 27.8% of the size of the principal dwelling. However, these plans are not yet finalized, and, with construction at least four years away, are subject to change. Therefore, the applicant has requested permission for up to 850 square feet of floor area (31.5% of the floor area of the principal dwelling) in order to provide for added flexibility in designing the accessory unit.
3. The Housing element of the comprehensive plan addresses the need for accessory apartments, particularly for the elderly. Noting that in the years ahead the steady growth of the elderly population will have a significant impact on the housing market, the plan states that accessory apartments "provide opportunities for households with an older relative who needs some degree of assistance to remain independent...As the population continues to grow older, there may be a need for the County to become more flexible in allowing accessory apartments."¹
4. The main issue with regard to accessory apartments is their compatibility with and impact on surrounding properties and the neighborhood as a whole. This is why they are permitted as a matter of right (up to 450 square feet) in all but the most densely developed single-family residential areas (i.e., areas zoned R13). The size limit also helps to prevent the equivalent of two houses on a single lot, thereby maintaining the single-family character of the neighborhood.
I do not believe the proposed accessory apartment poses any threat to the single-family character of Skimino Landing Estates. The low-density residential comprehensive plan designation, after all, provides for a maximum density of one unit per acre, and the area of the subject parcel is two acres. Furthermore, the large-lot nature of this subdivision helps to ensure that impacts on adjacent properties will be minimal. The garage apartment will be set back at least fifty feet (50') from Skimino Landing Drive and will be over one hundred feet (100') away from the nearest home (excluding, of course, the dwelling to which it is accessory).

¹ Charting the Course to 2015: The County of York Comprehensive Plan (adopted October 6, 1999), Housing, p. 47.

5. Performance standards for accessory apartments are set forth in Section 24.1-407 of the Zoning Ordinance. These limit the maximum number of accessory apartments to one per single-family detached dwelling, require adequate provisions for off-street parking (which should not be a problem in this case since the house will have a two-car attached garage as well as a three-car detached garage), require occupancy only by family members or guests of the occupant of the principal dwelling, and prohibit the apartment from being rented separate from the principal dwelling. These standards have been included in the approving resolution.
6. The property is located in the Chesapeake Bay Resource Management Area (RMA) and, as such, any development thereon will be subject to the Chesapeake Bay Preservation Act requirements set forth in the County's Environmental Management Area (EMA) overlay district regulations. These standards address such items as impervious surface, erosion and sediment control, septic system pump-out, and reserve septic drain fields.
7. There is no public water or sewer in Skimino Landing Estates; the lots are all served by private wells and septic systems. The subject parcel has a well site and a primary and reserve septic drain field approved by the Health Department for a maximum of four bedrooms, which is what the applicants plan to build, including the accessory apartment. A condition has been included in the approving resolution limiting the apartment to a single bedroom, and limiting to four (4) the combined number of bedrooms in the principal dwelling and the apartment. Although this will be difficult to enforce, the applicant (and any future owners) has a vested interest in adhering to this condition rather than be faced with having to repair or replace a failing septic system.
8. Section 24.1-115(c)(1) of the Zoning Ordinance states that unless otherwise specified by the conditions of the permit, a special use permit becomes null and void if the special use is not established within two (2) years of the date the permit is approved. Since the applicants have indicated that they do not plan to begin constructing the house until 2004, staff has included a condition in the approving resolution extending this period to five years.
9. Restrictive covenants are private agreements among homeowners and as such are enforced not by the County but by the respective homeowners' associations. However, for the Board's information, the applicants have received written approval from the Skimino Landing Estates' homeowners' association to build an accessory apartment on the subject parcel. Although the homeowners' association is currently controlled by the developer because fewer than 50% of the lots in the subdivision have been sold, there is an architectural committee composed of Skimino Landing Estates' homeowners, and it has reviewed and approved the applicants' plans. This approval, however, does not obviate the need for a special use permit.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission considered this application at its August 9 meeting and, subsequent to conducting a public hearing at which no one spoke, voted 5:0 (Mr. Semmes and Ms. White absent) to recommend approval.

COUNTY ADMINISTRATOR RECOMMENDATION

I am of the opinion that the subject parcel can accommodate the proposed accessory apartment with no adverse impacts on adjacent properties or County infrastructure. Therefore, I recommend that the Board approve this application through the adoption of proposed Resolution No. R00-135.

As part of the Zoning Ordinance review currently under way, staff plans to investigate the possibility of increasing opportunities for accessory apartments in accordance with guidance provided by the comprehensive plan. Although staff is not likely to recommend permitting accessory apartments in all residential districts as a matter of right, the current size limits appear to be unusually restrictive compared with other localities, and there may be a need to raise the threshold for requiring a use permit. James City County, for example, does not specify any upper limit on the size of such apartments as long as they are no larger than 30% of the size of the principal dwelling. The City of Williamsburg, while requiring all accessory apartments to be approved by its Board of Zoning Appeals, specifies that accessory apartments can be no smaller than 400 square feet and no larger than 800 square feet.

Baldwin/3495

Attachments

- Excerpts of unapproved Planning Commission minutes, August 9, 2000
- Zoning Map
- Sketch plan
- Preliminary floor plan and building renderings
- Proposed Resolution No. R00-135

Copy to: John and Janet Veith